

6-27-2007

MANDATORY REPORTING OF PREGNANCIES AND SEXUALLY TRANSMITTED INFECTIONS IN MINORS AS ABUSE. CONSTITUTIONAL AND STATUTORY AMENDMENT.

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MANDATORY REPORTING OF PREGNANCIES AND SEXUALLY TRANSMITTED INFECTIONS IN MINORS AS ABUSE. CONSTITUTIONAL AND STATUTORY AMENDMENT. California Initiative 1249 (2007).
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DEBRA BOWEN | SECRETARY OF STATE
STATE OF CALIFORNIA | ELECTIONS

1500 11th Street, 5th Floor | Sacramento, CA 95814 | Tel (916) 657-2166 | Fax (916) 653-3214 | www.sos.ca.gov

November 21, 2007

TO: ALL REGISTRARS OF VOTERS, OR COUNTY CLERKS, AND
PROPONENTS (07233)

FROM: 
KATHERINE MONTGOMERY
Elections Analyst

SUBJECT: WITHDRAWAL OF INITIATIVE #1249

The proponent of the hereinafter named proposed constitutional and statutory amendment has withdrawn the measure from circulation.

TITLE: MANDATORY REPORTING OF PREGNANCIES AND
SEXUALLY TRANSMITTED INFECTIONS IN MINORS AS
ABUSE. CONSTITUTIONAL AND STATUTORY
AMENDMENT.

SUMMARY DATE: June 27, 2007

PROPONENT: John Smith



DEBRA BOWEN, SECRETARY OF STATE
STATE OF CALIFORNIA | ELECTIONS

1500 11th Street, 5th Floor | Sacramento, CA 95814 | Tel (916) 657-2166 | Fax (916) 653-3214 | www.sos.ca.gov

June 27, 2007

TO: ALL COUNTY CLERKS/REGISTRARS OF VOTERS/PROPONENT
(07085)

FROM:


KATHERINE MONTGOMERY
Elections Analyst

SUBJECT: INITIATIVE #1249

Pursuant to Elections Code section 336, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed initiative measure entitled:

**MANDATORY REPORTING OF PREGNANCIES AND
SEXUALLY TRANSMITTED INFECTIONS IN MINORS AS ABUSE.
CONSTITUTIONAL AND STATUTORY AMENDMENT.**

The proponent of the above-named measure is:

John Smith

John.smith.jsjs@gmail.com

INITIATIVE #1249

Circulating and Filing Schedule continued:

(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 12/15/07, the last day is no later than the thirtieth working day after the county's receipt of notification). (EC §9030(d)(e)).

- f. If the signature count is more than 763,790 or less than 659,637 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 659,637 and 763,790 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures (EC §9030(f)(g); 9031(a)) Saturday, 02/09/08*

- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State. (EC §9031(b)(c)). Tuesday, 03/25/08

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 02/09/08, the last day is no later than the thirtieth working day after the county's receipt of notification)
(EC §9031(b)(c)).

- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient (EC §9031(d); 9033) Saturday, 03/29/08*

*Date varies based on the date of county receipt.

EDMUND G. BROWN JR.
Attorney General

State of California
DEPARTMENT OF JUSTICE



1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550

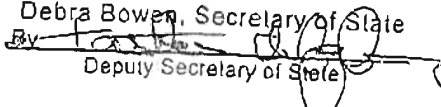
Public: (916) 445-9555
Telephone: (916) 445-1968
Facsimile: (916) 324-8835
E-Mail: Toni.Melton@doj.ca.gov

June 27, 2007

FILED
In the office of the Secretary of State
of the State of California

JUN 27 2007

Debra Bowen
Secretary of State
1500 - 11th Street, 5th Floor
Sacramento, CA 95814

Debra Bowen, Secretary of State
By 
Deputy Secretary of State

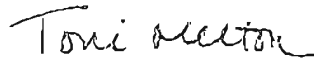
RE: Title and Summary for Initiative No. 07-0013
TITLE: MANDATORY REPORTING OF PREGNANCIES AND SEXUALLY
TRANSMITTED INFECTIONS IN MINORS AS ABUSE. CONSTITUTIONAL
AND STATUTORY AMENDMENT.

Dear Ms. Bowen:

Pursuant to the provisions in sections 336 and 9004 of the Elections Code, enclosed please find a copy of the Title and Summary issued for Initiative Number 07-0013 and text of the proposed measure.

Should you have any questions regarding the above, please do not hesitate to contact me.

Sincerely,



TONI MELTON
Initiative Secretary

For EDMUND G. BROWN JR.
Attorney General

Enclosures

Proponent's public information:

John Smith
john.smith.jsjs@gmail.com

RECEIVED

May 3, 2007

MAY - 3 2007

Office of the Attorney General of California

Attn: Toni Melton, Initiative Secretary

1300 I Street

P.O. Box 944255

Sacramento, CA 94244-2550

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Telephone: (916) 445-1968

Fax: (916) 324-8835

E-Mail: Toni.Melton@doj.ca.gov

Re: Submitting amended text for Proposed Initiative

No. 07-0013 - Child Abuse Reporting Enforcement Act of 2008

Dear Initiative Secretary Melton:

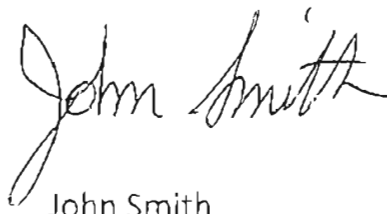
On Wednesday, April 18, I submitted the above referenced proposed Constitutional and Statutory initiative File **No. 07-0013** to your office, requesting that you prepare, pursuant to Article II, Section 10(d) of the California Constitution, a title and summary for this ballot initiative as provided by law. I submitted the required, signed statement under California Elections Code section 9608 and payment in the amount of \$200.

I now wish to submit an amended text for this initiative. A copy of the complete text of the initiative including the amendments, as required, is enclosed.

I am submitting these substantive amendments within 15 days following the April 18 receipt by your office of the original text of this initiative.

Thank you for your attention to this matter.

Sincerely,



John Smith

(e) Prompt reporting and investigation of reasonable suspicions of child sexual abuse are the first essential steps in protecting not only the abused child from continuing sexual abuse but also in protecting other children from sexual predators.

(f) Unmarried minors under the age of 16 engaging in sexual intercourse or other genital sexual contact creates significant burdens on the state and its public and private health and welfare systems, in that such activity leads to increased incidence of out-of-wedlock pregnancies, with attendant social pathologies, and sexually transmitted diseases, including incurable viral and other infections leading to hepatitis, cervical cancer, Kaposi's sarcoma, genital warts, immune deficiency, pelvic inflammatory disease, and sterility, as well as causing grave pre- and postnatal impairments to the development, health, and welfare of future children of affected minors. These adverse consequences result from sexual intercourse or other genital sexual contact by unmarried minors under the age of 16 whether or not the minor consented, whether or not the sexual partner was of similar age, whether or not the minor appears to have suffered abuse or injury, and whether or not the minor believes he or she has been abused or injured.

SECTION 3. Section 32 of Article I of the California Constitution is added to read:

SEC. 32: This Constitution shall not be construed by the courts to prohibit requiring any mandated reporter, including any person who is licensed or certified by the state to provide health care, from reporting a reasonable suspicion of child abuse based solely on a diagnosis of sexually transmitted infection, pregnancy, miscarriage, or complications of pregnancy, abortion, or miscarriage in a child under the age of 16.

SECTION 4. Section 11166 of the Penal Code is amended to read:

(a) Except as provided in subdivision (d), and in Section 11166.05, a mandated reporter shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. The mandated reporter shall make an initial report to the agency immediately or as soon as is practicably possible by telephone and the mandated reporter shall prepare and send, fax, or electronically transmit a written followup report thereof within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any nonprivileged documentary evidence the mandated reporter possesses relating to the incident.

(3) This subdivision shall become inoperative three years after this subdivision becomes operative or on January 1, 2009, which ever occurs first.

(4) On the inoperative date of these provisions, a report shall be submitted to the counties and the Legislature by the Department of Social Services that reflects the data collected from automated onetime reports indicating the reasons stated as to why the automated one-time report was filed in lieu of the initial telephone report.

(5) Nothing in this section shall supersede the requirement that a mandated reporter first attempt to make a report via telephone, or that agencies specified in Section 11165.9 accept reports from mandated reporters and other persons as required.

(c) Any mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by this section is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of one thousand dollars (\$1,000) or by both that imprisonment and fine. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until an agency specified in Section 11165.9 discovers the offense.

(d)(1) A clergy member who acquires knowledge or a reasonable suspicion of child abuse or neglect during a penitential communication is not subject to subdivision (a). For the purposes of this subdivision, "penitential communication" means a communication, intended to be in confidence, including, but not limited to, a sacramental confession, made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization, is authorized or accustomed to hear those communications, and under the discipline, tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.

(2) Nothing in this subdivision shall be construed to modify or limit a clergy member's duty to report known or suspected child abuse or neglect when the clergy member is acting in some other capacity that would otherwise make the clergy member a mandated reporter.

(3)(A) On or before January 1, 2004, a clergy member or any custodian of records for the clergy member may report to an agency specified in Section 11165.9 that

suspected child abuse to the law enforcement agency having jurisdiction over the case immediately, or as soon as practicably possible, by telephone and shall prepare and send, fax, or electronically transmit a written report of it with a copy of the film, photograph, videotape, negative, or slide attached within 36 hours of receiving the information concerning the incident. As used in this subdivision, "sexual conduct" means any of the following:

(1) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.

(2) Penetration of the vagina or rectum by any object.

(3) Masturbation for the purpose of sexual stimulation of the viewer.

(4) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.

(5) Exhibition of the genitals, pubic, or rectal areas of any person for the purpose of sexual stimulation of the viewer.

(f) Any mandated reporter who knows or reasonably suspects that the home or institution in which a child resides is unsuitable for the child because of abuse or neglect of the child shall bring the condition to the attention of the agency to which, and at the same time as, he or she makes a report of the abuse or neglect pursuant to subdivision (a).

(g) Any other person who has knowledge of or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to an agency specified in Section 11165.9.

(h) When two or more persons, who are required to report, jointly have knowledge of a known or suspected instance of child abuse or neglect, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

(1) (1) Every person or entity who owns or operates a health facility or a clinic where sexual or reproductive health services are provided to minors, or who is licensed as a physician and surgeon and rents or owns the premises where his or her practice is located and who provides sexual or reproductive health services to minors on such premises, shall cause a sign or notice to be posted at the patient registration area of the health facility, clinic, or physician and surgeon's office.

(2) The sign or notice shall read as follows: "WARNING: It is a crime to prevent or dissuade a minor who may be a victim of sexual abuse from providing accurate information, including the age of the victim or perpetrator, to a mandated reporter in connection with such victimization."

(3) The sign shall be not less than eight and one-half inches by 11 inches and shall be conspicuously displayed so as to be readable. The word "WARNING" shall not be less than one-half inch in height and shall be centered on a single line with no other text. The message on the sign shall appear in English and Spanish.

SECTION 5. Section 136.1 of the Penal Code is amended to read:

(a) Except as provided in subdivision (c), any person who does any of the following is guilty of a public offense and shall be punished by imprisonment in a county jail for not more than one year or in the state prison:

(1) Knowingly and maliciously prevents or dissuades any witness or victim from attending or giving testimony at any trial, proceeding, or inquiry authorized by law.

(2) Knowingly and maliciously attempts to prevent or dissuade any witness or victim from attending or giving testimony at any trial, proceeding, or inquiry authorized by law.

(3) For purposes of this section, evidence that the defendant was a family member who interceded in an effort to protect the witness or victim shall create a presumption that the act was without malice.

(d) Every person attempting the commission of any act described in subdivisions (a), (b), and (c) is guilty of the offense attempted without regard to success or failure of the attempt. The fact that no person was injured physically, or in fact intimidated, shall be no defense against any prosecution under this section.

(e) Nothing in this section precludes the imposition of an enhancement for great bodily injury where the injury inflicted is significant or substantial.

(f) The use of force during the commission of any offense described in subdivision (c) shall be considered a circumstance in aggravation of the crime in imposing a term of imprisonment under subdivision (b) of Section 1170.

SECTION 6. Severability

If any one or more provision, subdivision, sentence, clause, phrase or word of this act or the application thereof to any person or circumstance is found to be unconstitutional or invalid, the same is hereby declared to be severable and the balance of this act shall remain effective notwithstanding such unconstitutionality or invalidity. Each provision, subdivision, sentence, clause, phrase or word of this act would have been approved by voters irrespective of the fact that any one or more provision, subdivision, sentence, clause, phrase, or word might be declared unconstitutional or invalid.